

Application No.: 10/849,574
Amdt dated: May 9, 2008
Reply to Office action of December 13, 2007

REMARKS/ARGUMENTS

This Amendment is in response to the non-Final Office action of December 13, 2007. Claims 1-16 are pending in this application.

Claim Rejections – 35 USC §102

On page 2 of the action, Claims 1-8 and 10-16 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,820,600 to Carlson et al. (Carlson '600). To be anticipating, a prior art reference must disclose each and every limitation of the claimed invention, the prior art reference must be enabling, and the prior art reference must describe the claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention. Helifix Ltd. v. Blok-Lok, Ltd., 208 F.3d 1339, 54 USPQ2d 1299 (Fed. Cir. 2000).

Regarding Claims 1-8 and 10-16, it is indicated in the Office action that Carlson '600 discloses a seal for a laparoscopic port comprising jaws moveable radially with respect to the aperture between an open position wherein the shaft of the surgical instrument may pass freely and the closed position wherein the jaws engage the shaft and provide a restraining force restraining radial movement of the shaft (FIGS. 5a and 5b; col. 9, line 53 through col. 10, line 19); and an actuator (element 50; FIGS. 4-5b and col. 6, lines 1-8) rotatable to urge the jaws to move between the open position and the closed position. Applicants respectfully traverse this rejection.

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It is indicated in Carlson '600 (col. 9, line 53 through col. 10, line 19) that a valve assembly (8') includes a plurality of holding members/jaws (110) coupled to a proximal surface (112) of a dialator ring (50). The holding members (110) extend radially inward and have inner ends (114) defining a central opening (116) therebetween. The holding members (110) are movable from a first, smaller opening configuration (FIG. 5B) to a second, larger opening configuration (FIG. 5A). The holding members (110) are slidable along a track or groove in the proximal surface of the ring (50). The holding members (110) are biased radially inward by biasing means, such as a spring, or may be manually moved by the surgeon or actuated by movement of the ring (50) so that the size of the central opening (116) corresponds to the size of the aperture (62). However, nowhere in Carlson '600 does it disclose an actuator that is rotatable to urge the jaws to move between an open position and a closed position.

While Carlson '600 does disclose that rotational movement of the dialator ring (50), which causes linearly axial movement of the ring (50), can stretch or relax the aperture of the membrane (60) (Carlson '600, col. 8, lines 8-49), nowhere in Carlson '600 does it disclose that the rotational movement of the dialator ring (50) can urge the holding members/jaws (110) between an open position and a closed position as claimed in Claim 1 of the present Application. Carlson '600 merely discloses that the holding members (110) "may be actuated by movement of the ring (50)" (Carlson '600, col. 10, lines 4-19), but does not disclose what type of movement is required or how the movement actuates the holding members (110). Based on the foregoing, Carlson '600

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does not disclose each and every limitation of the claimed invention and, hence, Carlson '600 does not anticipate Claim 1 of the present Application. Therefore, Applicants respectfully submit that Claim 1 is allowable over Carlson '600 and respectfully request that this rejection be reconsidered and removed. Applicants also respectfully submit that Claims 2-16 are allowable over Carlson '600 as depending from an allowable base claim.

With specific reference to Claim 6, it is indicated in the Office action that Carlson '600 discloses that each guideway comprises an arcuate channel formed in the actuator, and a projection or other follower being received in the channel (FIGS. 4-5B). Referring to Claim 7, it is indicated in the Office action that Carlson '600 discloses that the channels have the configuration of parabolic curves. Applicants respectfully traverse these rejections.

Claims 3-5 of the present Application recite the jaws being moveable along guides on the carrier plate (Claim 3), the guides comprising channels between raised formations, tracks or runners (Claim 4), and each jaw comprising a follower member adapted to be received in a respective guideway in an actuator arranged so that rotation of the actuator causes radial movement of the jaw (Claim 5). Claim 6 of the present Application, which depends from Claims 3-5, recites each guideway comprising an arcuate channel formed in the actuator, a projection or other follower being received in the channel. Applicants respectfully submit that nowhere in Carlson '600 does it disclose the jaws including a follower member that is received in a guideway with the

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guideway being an arcuate channel, as recited in Claim 6 of the present Application. Applicants also respectfully submit that nowhere in Carlson `600 does it disclose that the arcuate channels have the configuration of parabolic curves, as recited in Claim 7 of the present Application. Based on the foregoing, Applicants respectfully submit that Claims 6 and 7 of the present Application are not anticipated by Carlson `600 and, hence, Claims 6 and 7 are allowable over Carlson `600. Applicants respectfully request that these rejections be reconsidered and removed.

With reference to Claim 11, it is indicated in the Office action that Carlson `600 discloses that the jaws may be fully opened or closed by a rotation through an angle of 30-280 degrees. Applicants respectfully traverse this rejection.

As indicated above, Carlson `600 does not disclose that rotational movement of the dialator ring (50) can urge the holding members/jaws (110) between an open position and a closed position. Therefore, Carlson `600 also does not disclose that the jaws may be fully opened or closed by a rotation through an angle of 30-180 degrees. Based on the foregoing, Applicants respectfully submit that Carlson `600 does not anticipate Claim 11 and that Claim 11 is allowable over Carlson `600. Applicants respectfully request that this rejection be reconsidered and removed.

Referring to Claims 12-15, it is indicated in the Office action that Carlson `600 discloses a multiplicity of shield members disposed on the proximal side of the diaphragm to prevent accidental damage to the diaphragm in use (Claim 12), the shield members being moveable radially between open and closed positions synchronously

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with the jaws (Claim 13), each shield member being attached to a respective jaw (Claim 14), and the shield members being interleaved to form a continuous barrier covering the diaphragm (Claim 15). Applicants respectfully traverse this rejection.

Applicants respectfully submit that nowhere in Carlson '600 does it disclose a shield to prevent damage to the diaphragm. In fact, FIGS. 2-5A specifically show the diaphragm (60) being exposed through an opening (52) in the ring (50). As such, the diaphragm (60) of Carlson '600 is subject to accidental damage by the instrument to be inserted therethrough. Based on the foregoing, Applicants respectfully submit that Carlson '600 does not anticipate Claims 12-15 and that Claims 12-15 are allowable over Carlson '600. Applicants respectfully request that these rejections be reconsidered and removed.

Referring to Claim 16, it is indicated in the Office action that Carlson '600 discloses each jaw member having two laterally extending shield members. Applicants respectfully traverse this rejection.

Applicants respectfully submit that nowhere in Carlson '600 does it disclose any laterally extending shield members extending from each of the jaws, let alone two laterally extending shield members. In Carlson '600, FIGS. 5A and 5B merely show the holding members (110) positioned on a proximal surface (112) of the dialator ring (50), but do not show anything extending laterally from the holding members (110). Based on the foregoing, Applicants respectfully submit that Carlson '600 does not anticipate

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Claim 16 and that Claim 16 is allowable over Carlson '600. Applicants respectfully request that this rejection be reconsidered and removed.

On page 4 of the action, Claims 1, 2 and 8-10 are rejected under 35 U.S.C. § 102(b) as being anticipated by EP Patent No. 0630660 to Smith et al. (Smith '660). Referring to Claims 1, 2 and 8-10, it is indicated in the Office action that Smith '660 discloses a seal for a laparoscopic port (FIGS. 8-10) comprising a multiplicity of jaws (228a and 228b) mounted on the base, the jaws being moveable radially with respect to the aperture between an open position wherein the shaft of the surgical instrument may pass freely and the closed position wherein the jaws engage the shaft and provide a restraining force restraining radial movement of the shaft (FIGS. 9 and 10); and an actuator rotatable to urge the jaws to move between the open position and the closed position (FIGS. 8-10 and col. 12, lines 14-55). Applicants respectfully traverse this rejection.

Regarding Claim 1, Applicants respectfully submit that Smith '660 does not disclose a seal for a laparoscopic port having an actuator rotatable to urge the jaws to move between an open position and a closed position. More particularly, the actuator/dilator (228) of Smith '660 moves linearly in a distal direction to actuate the jaws/extended members (228a, 228b) to dilate the duckbill (244), and spring (262) biases the actuator/dilator (228) in a proximal direction to allow the jaws/extended members (228a, 228b) to return back to the closed position and to allow the duckbill (244) to close (Smith '660, FIGS. 8-10 and col. 12, lines 14-55). Nowhere in Smith

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`660 does it disclose that the actuator/dilator (228) is rotatable to urge the jaws to move between an open position and a closed position. Based on the foregoing, Applicants respectfully submit that Smith `660 does not anticipate Claim 1 of the present Application, and Claim 1 is allowable over Smith `660. Applicants respectfully request that this rejection be reconsidered and removed. Applicants also respectfully submit that Claims 2 and 8-10 are allowable over Smith `660 as depending from an allowable base claim and, hence, respectfully request that the rejections to these claims be reconsidered and removed.

Conclusion

In view of the foregoing amendments and remarks, it is respectfully submitted that this Application is in condition for allowance. Accordingly, reconsideration of the application and allowance of Claims 1-16 are respectfully requested. Applicants also respectfully submit that the noted features are merely exemplary and/or illustrative and do not disavow any claim scope or define any elements or terms in the claims in such a way other than as recited or provided in the claims and their equivalents. Likewise, any characterization of the features in relation to the claims are merely exemplary and/or illustrative and thus Applicants do not disavow any claim scope or specially define any elements or terms in the claims in such a way other than as recited or provided in the claims and their equivalents. If the Examiner should have any remaining questions or

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objections, a telephone interview to discuss and resolve these issues is respectfully requested.

Sincerely

APPLIED MEDICAL RESOURCES

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